IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1 OF 2006

Ibrahim S/o.Mahd.Kasu & Anr. .. Petitioners

Versus

State of Maharashtra & Ors. .. Respondents

Mr.Naeem Shaikh for petitioners

Mr.S.G.Surana with C.N.Gole for respondent No.4

Mr.R.M.Patne, A.G.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 19th January 2006.

P.C.

. This petition under Article 227 of the Constitution of India challenges an order passed

by the Maharashtra Slum Tribunal condoning the delay in filing of appeal by respondent No.4 herein.

2. It appears from the record that earlier the President of Slum Tribunal had taken up the appeal itself for adjudication without passing a separate order on the application for condonation of delay. The grievance in that behalf was made by the petitioner herein by instituting writ petition No.1410 of 2005 in this Court. The Division Bench by its order dated 18th October 2005 allowed the said petition and directed Slum Tribunal to bifurcate the proceedings inasmuch as first application for condonation of delay was directed to be taken up and thereafter the appeal if the delay stood condoned. That course was adopted at the instance of petitioner who appeared at the hearing of Misc.Application for condonation of delay. Ground on which the delay of about 15 years was sought to be condoned,

inter alia, included non compliance with the statutory mandate and more particularly that of publication in the newspapers by the competent authority of the declaration proposing a particular area/property being declared as slum. The President while passing the impugned order and condoning the delay in filing appeal has adverted to these provisions and has observed in para 8 that the competent authority has not shown that provisions have been complied with. My attention was also invited to the reply filed by the Collecor, Encroachment, Dharavi to the said application. It is specifically admitted that old records pertaining to the declaration of the subject property are not traceable. In these circumstances, the discretion exercised by the President in condoning the delay cannot be said to be vitiated by any error apparent or can be termed as perverse soas to call for interference by this Court under its jurisdiction under Article 227 of the Constitution of India.

Petition stands dismissed.

3. Costs which are directed to be paid by the President stand enhanced to Rs.5000/-. Tribunal to now decide he appeal on merits as expeditiously as possible and after hearing all affected parties. All contentions on merits are expressly kept open.

(S.C.DHARMADHIKARI, J)